

Environmental Protection Agency

§ 260.34

(2) The value of the material after it has been reclaimed;

(3) The degree to which the reclaimed material is like an analogous raw material;

(4) The extent to which an end market for the reclaimed material is guaranteed;

(5) The extent to which the reclaimed material is handled to minimize loss;

(6) Other relevant factors.

[50 FR 662, Jan. 4, 1985, as amended at 59 FR 48041, Sept. 19, 1994; 71 FR 16902, Apr. 4, 2006]

§ 260.32 Variances to be classified as a boiler.

In accordance with the standards and criteria in § 260.10 (definition of “boiler”), and the procedures in § 260.33, the Administrator may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in § 260.10, after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a “boiler” functioning primarily to produce steam, heated fluids, or heated gases; and

(f) Other factors, as appropriate.

[50 FR 662, Jan. 4, 1985, as amended at 59 FR 48041, Sept. 19, 1994]

§ 260.33 Procedures for variances from classification as a solid waste, for variances to be classified as a boiler, or for non-waste determinations.

The Administrator will use the following procedures in evaluating applications for variances from classification as a solid waste, applications to classify particular enclosed controlled flame combustion devices as boilers, or

applications for non-waste determinations.

(a) The applicant must apply to the Administrator for the variance or non-waste determination. The application must address the relevant criteria contained in § 260.31, § 260.32, or § 260.34, as applicable.

(b) The Administrator will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement or radio broadcast in the locality where the recycler is located. The Administrator will accept comment on the tentative decision for 30 days, and may also hold a public hearing upon request or at his discretion. The Administrator will issue a final decision after receipt of comments and after the hearing (if any).

(c) For non-waste determinations, in the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in § 260.34 upon which a non-waste determination has been based, the applicant must re-apply to the Administrator for a formal determination that the hazardous secondary material continues to meet the relevant criteria and therefore is not a solid waste.

[59 FR 48041, Sept. 19, 1994, as amended at 73 FR 64758, Oct. 30, 2008]

§ 260.34 Standards and criteria for non-waste determinations.

(a) An applicant may apply to the Administrator for a formal determination that a hazardous secondary material is not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in paragraphs (b) or (c) of this section, as applicable. If an application is denied, the hazardous secondary material might still be eligible for a solid waste variance or exclusion (for example, one of the solid waste variances under § 260.31). Determinations may also be granted by the State if the State is either authorized for this provision or if the following conditions are met:

(1) The State determines the hazardous secondary material meets the criteria in paragraphs (b) or (c) of this section, as applicable;